

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

LEE D. WEST and LYNN M. WEST,	)	
Plaintiffs,	)	
	)	
v.	)	No. 08 CV 2154
	)	
COPIAGUE FUNDING CORPORATION, et al.,	)	Honorable Robert W. Gettleman
Defendants.	)	

**DEFENDANT COPIAGUE FUNDING CORPORATION'S  
MOTION TO DISMISS PURSUANT TO RULES 12(b)(1) AND 12(b)(6)  
OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Defendant, Copiague Funding Corporation, by its counsel, John P. Duggan, Duggan Law Offices, respectfully moves this Court for an order dismissing Plaintiffs' Complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and in support of its motion, Copiague states as follows:

1. The TILA action for damages must be brought within one year of the alleged violation, 28 U.S.C. §1640(a). The date of the violation in the context of the mortgage transaction is the date that the transaction is closed.
2. Plaintiffs' loan transaction closed more than one year prior to the filing of this action, on September 15, 2006.
3. Homecomings Financial accepted Plaintiffs' claim for rescission (please see Defendant's Homecomings Financial, et al. Motion to Dismiss). Accordingly, the TILA claim is barred by statute.
4. Plaintiffs have identified no statement whatsoever that Defendant Copiague has made in connection with Wests' loan application which was in any way untrue; the Exhibits which Plaintiffs attach to their complaint only allege that Copiague requested that the Wests

submit documents to Homecomings Financial. Plaintiffs wholly fail to identify any statements whatsoever that Copiague is claimed to have made in connection with the Wests' loan application that was in any way false, or to whom such a false was made.

WHEREFORE, Defendant, Copiague Funding Corporation, respectfully request this court to enter an order dismissing Plaintiffs' Complaint with prejudice pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, and awarding such further relief to Copiague Funding Corporation as this court deems just and appropriate.

Dated: June 20, 2008

COPIAGUE FUNDING CORPORATION

By: /s/ John P. Duggan  
one of its attorneys

JOHN P. DUGGAN  
DUGGAN LAW OFFICES  
181 S. Lincolnway  
North Aurora, IL 60542  
Telephone: (630) 264-7893  
Fax: (630) 264-1310  
Computer Fax: (877) 300-7451  
Cell: (630) 222-2223  
e-mail: [dugganjpd@aol.com](mailto:dugganjpd@aol.com)  
ARDC No. 688223